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Filed : **January 14, 1999**

REMARKS

Claims 26 and 100-114, 133, 134, and 142-144 are pending in this application. The Applicants have canceled Claims 1-25, 27-99, 115-132, and 135-141 without prejudice or disclaimer. The Applicants reserve the right to prosecute the canceled claims in one or more continuation or divisional applications.

The Applicants traverse the Examiner's rejections as follows.

Objections to the Specification

The Applicants note that they filed both a clean copy of the amended specification and a marked-up copy of the amended specification on December 1, 2005 and March 22, 2006. The marked up copy shows the amendments made by the Applicants.

The Applicants have amended the first occurrence of "HTML" to read "Hypertext Markup Language (HTML)." The Applicants have amended the first occurrence of "URL" to read "Universal Resource Locator (URL)." The Applicants have deleted all occurrences of <http://www>.

The Applicants believe that they have addressed all objections to the specification.

Objection to Claim 113

The Examiner objected to Claim 113 because it allegedly contained certain informalities. Although the Applicants disagree with the objection, Claim 113 has been amended herein to remove the language to which the Examiner objected.

35 U.S.C. § 112

The Examiner rejected Claims 26, 100-114, 133, and 134 as allegedly failing to comply with the enablement requirement. The Applicants traverse the rejection.

The Applicants first note that M.P.E.P. § 2163.02 states that "[t]he subject matter of the claim need not be described literally (i.e., using the same terms or *in haec verba*)." For example, the phrase "buyer-seller association software module," as used in Claim 26 does not need to appear, verbatim, in the specification, in order for this limitation to be enabled. The Applicants submit that the disclosure related to the "buyer-dealer association module," which does appear in the specification, enables the claimed "buyer-seller association software module."

Below, the Applicants indicate some portions of the specification that enable each of the claim limitations of Claim 26. These portions are listed by way of example only and are not an

exhaustive list of all portions of the specification that enable the claim limitations. Rather, the Examiner must review the specification as a whole to determine whether the claims are enabled.

The limitation “a plurality of purchase request records stored in a computer system remotely accessible via a network and created from data received from potential buyers, said data including buyer contact information and product information” is enabled by several portions of the specification, including, by way of example and not limitation, Figures 1 and 7 and Paragraphs [0057], [0073]-[0084], and [0105], when read in light of the specification as a whole.

The limitation “a plurality of participating seller records comprising information about a plurality of participating sellers, said purchase request records and seller records stored on computer-readable medium” is enabled by several portions of the specification, including, by way of example and not limitation, Figures 1 and 3 and Paragraphs [0090] and [0091], when read in light of the specification as a whole.

The limitation “a buyer-seller association software module stored on computer-readable medium and configured to assign each of said purchase request records to only a subset of the participating sellers in accordance with purchase request criteria, said purchase request criteria for each of said participating sellers predetermined in accordance with a relationship between a lead distributor and each of said plurality of participating sellers” is enabled by several portions of the specification, including, by way of example and not limitation, Figures 1, 2, and 6 and Paragraphs [0018]-[0020], [0058], [0085], [0086], [0111]-[0114], [0128], and [0129], when read in light of the specification as a whole.

The limitation “a seller remote access software module executed on said computer system, stored on computer-readable medium, comprising computer-executable instructions that define one or more operations for viewing and managing said purchase request records, and configured to provide each of said participating sellers with access to said computer system such that each seller can access only the subset of purchase request records which have been assigned to said seller by said buyer-seller association software module and can invoke the operations for viewing and managing said subset of purchase request records” is enabled by several portions of the specification, including, by way of example and not limitation, Figures 1, 2, and 6 and Paragraphs [0057], [0062]-[0065], [0067], and [0141]-[0144], when read in light of the specification as a whole.

The limitation “a processor in communication with said software modules and configured to execute said software modules” is enabled by several portions of the specification, including, by way of example and not limitation, Figure 6 and Paragraphs [0076] and [0098], when read in light of the specification as a whole.

The above list of figures and paragraphs in the specification is not an exhaustive list of every portion of the specification that enables the claim limitations. Should the Examiner have any further question concerning enablement, the Examiner is invited to call the undersigned attorney at (949) 721-2897.

The Examiner also rejected Claims 26, 100-114, 133, and 134 as allegedly being indefinite. The Applicants disagree with the rejection, but have amended Claim 26 to expedite prosecution.

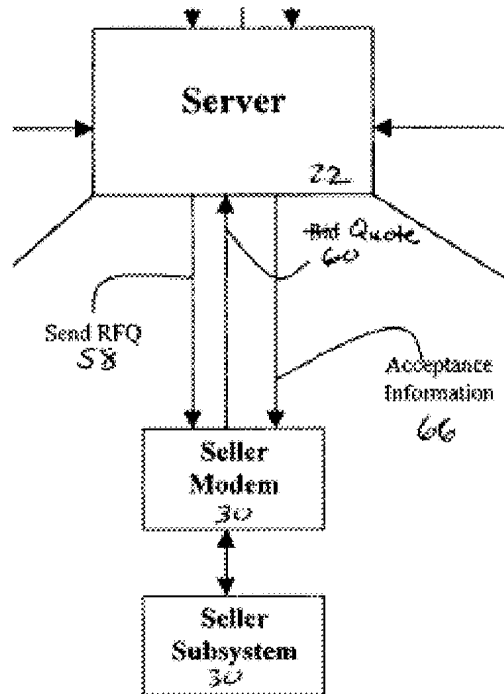
35 U.S.C. § 102

The Examiner rejected Claims 26 and 100-104 as allegedly anticipated by U.S. Patent No. 7,236,983 to Nabors *et al.* The Applicants note that the present application was filed before the filing date of the Nabors patent. Accordingly, the Nabors patent cannot be prior art to the present application except with respect to subject matter that was disclosed in the parent application of the Nabors patent.

The Applicants submit that the Nabors parent application does not teach, fairly suggest, or render obvious every limitation of Claim 26. By way of example only and not limitation, the Nabors parent application does not teach, fairly suggest, or render obvious at least the following claim limitation:

a seller remote access software module executed on said computer system, stored on computer-readable medium, comprising computer-executable instructions that define one or more operations for viewing and managing said purchase request records, and configured to provide each of said participating sellers with access to said computer system such that each seller can access only the subset of purchase request records which have been assigned to said seller by said buyer-seller association software module and can invoke the operations for viewing and managing said subset of purchase request records.

The Nabors parent application teaches a system that transmits Requests for Quotes (“RFQs”) from a server to a seller via modem. A portion of Figure 1 of the Nabors parent application is reproduced below, showing the transmission of RFQs from the server to a seller via modem.



Importantly, the Nabors parent application teaches a system that simply sends messages back and forth between the server and the seller. However, the seller does not have access to the server in order to invoke operations that are executed on the server for viewing and managing purchase requests. Thus, the Nabors parent application does not teach, fairly suggest, or render obvious that the seller has “access to said computer system such that each seller can access only the subset of purchase request records which have been assigned to said seller by said buyer-seller association software module and can invoke the operations for viewing and managing said subset of purchase request records.”

Because the Nabors patent does not teach, fairly suggest, or render obvious every limitation of Claim 26, the Applicants submit that Claim 26 is allowable over the Nabors patent. The other pending claims incorporate the limitations of Claim 26 and are thus allowable for the same reasons. In addition, the Applicants submit that the dependent claims are allowable based on their additional limitations. Accordingly, the Applicants request that the Examiner withdraw the rejections under 35 U.S.C. § 102.

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35 U.S.C. § 103

The Examiner rejected Claims 105-114, 133, and 134 as allegedly being obvious in view of the Nabors patent combined with other art of record. The Applicants traverse the rejections. As set forth above with respect to 35 U.S.C. § 102, the Nabors patent does not teach, fairly suggest, or render obvious all of the claim limitations of Claim 26 or its dependent claims. Moreover, the other references cited by the Examiner do not teach, fairly suggest, or render obvious the claim limitations that are lacking in the Nabors patent.

Accordingly, the Examiner has not shown that a person of ordinary skill in the art would have found the claims to have been obvious, in view of the art of record, as of the filing date of the present application. The Applicants therefore request that the Examiner withdraw the rejections under 35 U.S.C. § 102.

Response to 37 C.F.R. 1.105 Request for Information

In a Request for Information under 37 C.F.R. § 1.105, the Examiner asked: "How does Auto-by-tel.com, an online auto source differ from the disclosed patent application?" The Applicants respond as follows:

The assignee of the present application operates the Autobytel website that is located at <http://www.auto-by-tel.com> (or, alternatively, <http://www.autobytel.com>). The Autobytel website was in operation more than one year before the filing date of the present application. However, the features and functionality of the Autobytel website have changed multiple times.

The Applicants understand the Examiner's question to be a request for information about how the Autobytel website, as it existed more than one year before the filing date of the present application, differed from the present claims of the present application. Accordingly, based on this understanding, the Applicants will not provide information about the Autobytel website as it presently exists or as it existed less than one year before the filing date of the present application. The Applicants invite the Examiner to contact the undersigned attorney if the Applicants have misunderstood the Examiner's question.

The Applicants note that it is difficult to characterize the features and functionality that existed on the Autobytel website more than 10 years ago. Accordingly, in an effort to accurately inform the Examiner of the features and functionality of the Autobytel website as it existed more than one year before the filing date of the present application, the Applicants have submitted

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documents that purport to describe the Autobytel website as it existed more than one year before the filing date of the present application. The Applicants invite the Examiner to compare these submitted documents to the present claims in order to answer the question of how the Autobytel website, as it existed more than one year before the filing date of the present application, differed from the present claims of the application. Should the Applicants become aware of any further information that is non-cumulative and material to the patentability of the present application, the Applicants will submit such information to the Patent Office.

No Disclaimers or Disavowals

Although the present communication amends the claims and may include characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any amendments or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Rescission of Any Prior Disclaimers and Request to Revisit Cited Art

The claims of the present application are different and possibly broader in scope than claims previously presented in this application or any pending claims in any related application or issued claims in any related patent. Many of the pending claims omit at least one limitation included in a previously-presented claim. The Applicants omitted these limitations from the claims of the present application in order to obtain claims with different and possibly broader scope. The pending claims do not include, and should not be construed to include, any omitted limitation. In view of the different scope of the pending claims, the Applicants request that the Examiner review the art of record in this application and any related applications and patents, in addition to any newly discovered art, to determine whether the pending claims are allowable.

Moreover, with respect to amendments or arguments concerning previously-presented claims, to the extent that any amendments or characterizations of the scope of any claim or

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referenced art could be construed as a disclaimer of any subject matter supported by the present disclosure, the Applicants hereby rescind and retract such disclaimer. While the Applicants believe that no such disclaimer exists, if the Examiner disagrees, the Examiner may need to re-visit the listed or referenced art.

Conclusion

The Applicants believe that the pending claims are allowable and respectfully request that the Examiner allow all pending claims. If any issues remain that may be resolved by telephone, Applicants invite the Examiner to contact Applicants' attorney at (949) 721-2897.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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AMEND